

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MARK J. PATNOD,

Plaintiff,

v.

DAVID NOLAN, Superintendent,
Massachusetts Correctional Institution
at Cedar Junction,

Defendant.

CIVIL ACTION
NO. 04-10865-GAO

MOTION FOR ENTRY OF JUDGMENT BY DEFAULT

The plaintiff, Mark J. Patnod, hereby moves, pursuant to Rule 55 of the Federal Rules of Civil Procedure, that judgment by default be entered in his favor, due to the failure of the defendant, David Nolan, to respond to the summons and complaint. In support of his motion, Mr. Patnod states:

1. Copies of the summons and complaint in this action were properly served upon Superintendent Nolan by certified mail, pursuant to Rule 4(j)(2) of the Federal Rules of Civil Procedure and Rule 4(d)(4) of the Massachusetts Rules of Civil Procedure. According to the return receipt, Superintendent Nolan received the summons and complaint on August 19, 2004. See the Return of Service filed with the Court on September 15, 2004 (copy attached as Exhibit A), which is signed under pains and penalties of perjury by the plaintiff's attorney, Eileen M. Hagerty, and therefore constitutes an affidavit.

2. Copies of the summons and complaint in this action were also properly served upon Thomas Reilly, Attorney General of the Commonwealth of Massachusetts, by certified

mail, pursuant to Rule 4(j)(2) of the Federal Rules of Civil Procedure and Rule 4(d)(4) of the Massachusetts Rules of Civil Procedure. According to the return receipt, Attorney General Reilly also received the summons and complaint on August 19, 2004. See the Return of Service filed with the Court on September 15, 2004 (copy attached as Exhibit B), which is signed under pains and penalties of perjury by the plaintiff's attorney, Eileen M. Hagerty, and therefore constitutes an affidavit.

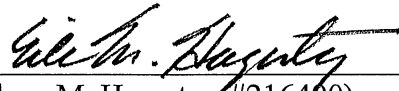
3. Pursuant to Rule 12(a)(1) of the Federal Rules of Civil Procedure, the defendant was required to answer or otherwise respond to the complaint within twenty days of the date of services, i.e., by September 8, 2004. That deadline has passed. To date, the defendant has not answered or otherwise responded to the complaint, nor has he (or any representative) appeared in this action.

WHEREFORE, the plaintiff respectfully requests that judgment by default be entered in his favor.

Respectfully submitted,

MARK J. PATNOD

By his attorneys,



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Dated: September 29, 2005